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Federal Communications Commission
Office of Secretary

EMBASSY OF THE REPUBLIC OF TRINIDAD AND TOBAGO

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February 28, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W.
Room 222
Washington, D.C. 20554

Dear Mr. Caton,

Initial Comment on FCC Notice of Proposed Rule Making FCC 96-848. In the Matter of International Settlement Rates IB Docket No. 96-261

The Government of the Republic of Trinidad and Tobago has considered the contents of the Notice of Proposed Rule Making (NPRM) FCC 96-848, in the matter of International Settlement Rates IB Docket No. 96-261 and wishes to convey its objection to the proposed unilateral action of the Federal Communications Commission (FCC) to impose Settlement Rates on sovereign states.

Settlement Rates are normally agreed bilaterally between carriers taking into account regulations and recommendations of the International Telecommunications Union (ITU) and the Trinidad and Tobago Government is of the view that the proposed unilateral imposition of rates by the FCC is totally inappropriate and departs from established procedures.

Attached hereto for your consideration is correspondence from the Office of the Prime Minister of Trinidad and Tobago, under cover of which is forwarded the initial comments of the Telecommunications Services of Trinidad and Tobago Limited (TSTT), a company in which the Government of Trinidad and Tobago has 51% shareholding. The Government of the Republic of Trinidad and Tobago endorses the comments of the TSTT.

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Facsimile copies of the above-mentioned correspondence are being sent to you for reasons of expediency. The original letters will be forwarded as soon as they are received.

Yours sincerely,

Lennox Wattley
Chargé d'Affaires, a.i.

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Federal Communications Commission
Office of Secretary

OFFICE OF THE PRIME MINISTER
PORT-OF-SPAIN
REPUBLIC OF TRINIDAD AND TOBAGO

February 27, 1997

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street N.W.
Room 222
Washington DC 20554
U.S.A.

Dear Mr. Caton

Subject: **Initial Comment on FCC Notice of Proposed Rule Making**
FCC 96-848
In the Matter of International Settlement Rates
IB Docket No. 96-261

The Government of the Republic of Trinidad and Tobago has considered the contents of the Notice of Proposed Rulemaking (NPRM) mentioned above and wishes to express its objection to what appears to be unilateral action on the part of the Federal Communications Commission (FCC) to impose Settlement Rates on sovereign states.

Settlement Rates are normally agreed bilaterally between carriers taking into account regulations and recommendations of the International Telecommunications Union (ITU) and we consider the proposed unilateral imposition by the FCC to be totally inappropriate.

We have reviewed the initial comments submitted by the Telecommunications Services of Trinidad and Tobago Ltd. (TSTT) which is owned 51% by the Government of the Republic of Trinidad and Tobago and we support the positions expressed therein (see attached).

Respectfully

John Prince

Permanent Secretary,
Office of the Prime Minister
(Science, Technology and
Tertiary Education)

c.c. CEO, TSTT

Telecommunications Services of Trinidad and Tobago Limited

Form No. 050585

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Fax: (809) 627-0856, Tlx. 9003 TSTT WG.

IB DOCKET NO. 90-337

Ref: 10000/39/97

1997 January 31

Mr William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street N.W.
Room 222
Washington DC 20554
U.S.A.

Dear Sir

NOTICE OF PROPOSED RULE MAKING (1B DOCKET NO. 96-261)

We hereby submit one (1) original and nine (9) copies of our comments in response to the FCC's proposals in its Notice of Proposed Rule Making (NPRM) (1B Docket No. 96-261).

In accordance with paragraph 105 of the NPRM, we want each Commissioner to receive a personal copy of our comments. Accordingly we have submitted one (1) original and nine (9) copies of our comments.

We strongly urge the FCC to consider carefully the issues raised by TSTT in our comments.

Sincerely

Samuel A. Martin
Chief Executive Officer

cc: Kathryn O'Brien. International Bureau

1B Docket No. 90-337

Before the
Federal Communications Commission
Washington, D.C. 20554

In the matter of International Settlement Rates: 1B Docket No. 96-261

Initial Comments of
Telecommunications Services of Trinidad and Tobago Limited with respect to Notice of Proposed Rule Making (1B Docket No. 96-261)

Date: 31st, January 1997

Table of Contents

SECTION 1: INTRODUCTION

Telecommunications Services of Trinidad and Tobago Limited (TSTT) is the sole telecommunications carrier in the Republic of Trinidad and Tobago. It provides both domestic and international telecommunications services. The Republic of Trinidad and Tobago is a formal member of the International Telecommunications Union (ITU)

We have considered the FCC's proposals in its Notice of Proposed Rule Making (1B Docket No. 96-261) with respect to mandatory settlement rate benchmarks and related policies and wish to comment as specified in Section 2 hereof.

SECTION 2: COMMENTS

1.0 REGULATORY AUTHORITY

It is our considered view that the FCC has no jurisdiction to unilaterally or otherwise, impose or seek to impose adjustments to the Accounting Rate regime which currently exists.

We wish to point out that we regard the ITU as the appropriate forum to address this issue and in this regard indicate that the ITU has indeed been very active in this area through Study Group 3 and is well advanced in their deliberations. This approach has been agreed to by other countries, including the USA and it is only reasonable to give this process the opportunity to work instead of attempting to undermine it.

Notwithstanding the above, we are of the view that in the interim the prevailing bilateral negotiating process must be respected by all parties. As such, the demand to adjust Accounting Rates downward within the short timeframe specified, whilst ignoring the role and authority of the ITU, in our opinion, is contemptuous of our existing agreements with US carriers and the currently utilised negotiating process to effect adjustments.

Further, the FCC's stated intention that implementation of the proposed approach will be mandatory if not agreed upon by other countries, is tantamount to tyranny given that the US Congress which passed the Communication Act (through which the FCC has authority), cannot make laws governing other sovereign nations.

The comments on this NPRM herein after set out are made without prejudice to our views on the jurisdiction of the FCC as stated in this paragraph.

2.0 LEGAL DISPUTE RESOLUTION

Whilst it was indicated that appeals would be entertained, no details are given regarding the nature of the forum for dispute resolution.

3.0 CHOICE OF CRITERION

The FCC has suggested the use of GNP as the criterion to determine the Accounting Rate to be established between the USA and other countries. The criterion as utilised for middle income countries is unjustifiably wide.

One of our concerns with this criterion is that GNP is a fickle indicator and can be subject to significant fluctuations which could nullify any Accounting Rate structure established on this basis.

While it is recognised that telecommunications facilitate economic development, it must also be noted that GNP is by no means a true indicator of the level/extent of development of a country's telecommunications infrastructure. Using GNP by itself, distorts the application of benchmark rates, given that it does not take into consideration other social and economic factors such as unemployment, income distribution and poverty. Additionally, it does not give an appreciation of the funding required to develop the domestic telecommunications infrastructure.

Thus, adjusting Accounting rates on the basis of GNP may well deprive some countries and /or administrations of critical funding for the development of their telecommunications infrastructure.

We wish to propose teledensity as one of the alternatives to the use of GNP as the criterion for adjusting Accounting Rates.

4.0 PROPOSED TRANSITION PERIOD

The proposed implementation period for effecting the transition from prevailing rates to the FCC's desired rates of two to four years is too short. This is woefully inadequate given that inpayments are the primary source of finances to fund much needed network infrastructural development, the standard of which infrastructure is typically 20% of the level of the developed countries. The gap to be bridged will require funding over a much longer timeframe. In addition, the recovery period for existing network investments, which were initially based on the anticipated inpayments, would be jeopardised. Additionally this timeframe is inadequate to allow for a reasonable gradual increase in domestic rates which will materialise in the event of a decrease in Accounting rates thus impacting negatively on the realisation of an efficient, nationwide and worldwide telecommunication service. To further imply that if the benchmark figures are not achieved within the proposed timeframe that countries are unreasonable, is unfair.

5.0 COSTING METHODOLOGY

5.1 Use of Domestic Rates

In the absence of costing information for terminating international traffic for individual Business units, the FCC used the Foreign Carrier's tariffed prices to establish benchmarks.

It is well understood that services do not reflect their true costs in markets because of the cross subsidy element from local business customers and inpayments. In some cases, Hong Kong and Barbados are cases in point, national extension costs are not rated, because telephone usage rates per minute are not applicable. This confirms that the use of domestic rates is not a foolproof method for cost measurement.

5.2 Comparative Costs

The cost of a call as developed by the FCC is based largely on the cost of infrastructural development in the USA. This is not a true reflection of developing countries' cost structures, as we are faced with certain unique costs which are not reflected to the same degree as that of a US carrier, e.g., international transportation, insurance, local duties and taxes. This is supported by a recent ITU Study in which it was concluded that for developing countries the unit cost per minute of terminating a call was 200% higher than that of developed countries such as the USA. This provides justification for seeking a revision of the existing policy of a 50/50 sharing of the Accounting rate.

5.3 Economies of Scale

Developing countries are unable to enjoy vast economies of scale which influences the average cost of a call as does the USA which has a significantly larger market size, network and social infrastructure and capacities fill. Thus, our charges for call termination would be higher than that of the USA.

5.4 Other

The FCC's costing methodology which prescribes TSLRIC versus FDC is questionable and needs to be revisited.

6.0 ADJUSTMENTS TO ACCOUNTING RATES

At present there are agreements with the USA for the adjustments to Accounting Rates over the next few years. Any attempt to effect changes to these agreements which does not involve a bilateral negotiating process is not in keeping with or geared toward maintaining good international relations.

It is instructive to note that the USA is not applying the same pressure on transit rates as it is on termination rates. We believe this is because it is a net revenue receiver where transit is concerned.

6.0 ADJUSTMENTS TO ACCOUNTING RATES (Cont'd)

The FCC also made the point that reducing Accounting rates will enable the foreign administrations to offer lower prices to domestic consumers, given that the cost to terminate calls will be less. Historically, however, the FCC has never championed this cause, in that while there have been significant reductions in Accounting rates since around 1985, the benefits of lower call termination costs have not been passed on to customers in the USA. As such, it is reasonable to question consumer welfare as a genuine motive for seeking adjustments in Accounting rates.

It is interesting to note that typically a consumer in the USA pays more for a call to the Caribbean than a Caribbean customer for a call to the USA unless they subscribe to a special calling plan.

7.0 CROSS SUBSIDISATION

The FCC has effectively characterised cross subsidies as one of the scourges of modern day telecommunications. It must be pointed out, however, that cross subsidies have been institutionalised within the USA's telecommunications industry since inception with international/domestic, urban/rural and business/residential being the primary combinations. In fact, the USA has used cross subsidisation as a mechanism for acquiring funds to develop its telecommunications infrastructure and continues to do so. It would seem that the FCC is seeking to outlaw cross subsidisation now that it has maximised the benefits from this pricing scheme, which is a very myopic approach to this issue.

It is also known that in some States within the USA cross subsidisation is sanctioned in view of the relatively higher cost structures to which service providers in those States are subjected in developing their network infrastructure. Further, predetermined cost separation factors which are not supported by the causation concept, e.g., the subscriber line factor studies, are still in existence in the USA.

8.0 BALANCE OF PAYMENT (TELECOMMUNICATIONS)

Telecommunications supports a two-way flow of capital in that while inpayments are received by our administration, the USA is a net receiver of capital when we purchase plant, equipment and services to support the growth of the domestic network infrastructure.

Apart from the above consideration, the fact remains as a result of the economic growth in developing countries, which will be facilitated by improvements in their telecommunications infrastructure, benefits will redound to the USA as well.

These benefits will be negated and should be considered in determining the urgency for reducing Accounting rates.

9.0 ACHIEVING THE STATED OBJECTIVES

The FCC has either stated or implied that the objectives to be achieved from reducing Accounting rates are:

- enhancing consumer welfare
- enhancing the standard of telecommunications globally
- improving the USA's balance of trade position give the size of their outpayments

As indicated above, we are not convinced that consumer welfare will benefit in any meaningful way. With respect to improving the standard of telecommunications on a global basis, this could never be realised if developing countries are deprived of a significant portion of their revenues, as represented by inpayments, to fund infrastructural work.

The issue of balance of payments in this instance has to be appreciated in the context of the telecommunications sector only as outlined in the section above entitled Balance of Payments (Telecommunications).

10.0 ORCHESTRATED CHANGES IN TRAFFIC FLOW

The level of outpayments being experienced by the US carriers is significantly influenced by the change in the direction of international traffic, which result in these calls being billed in the USA rather than the home country of origination. This evolving scenario of introducing services which result in the reversal of the direction of international traffic, is being actively pursued by these carriers with services such as call back and home country direct.

It is regarded as unfortunate that the FCC now seeks to penalize foreign administrations for the development of a situation which was actively contributed to by their domestic carriers and which they themselves supported.

10.1 Legality of Callback

The FCC should treat all callback services as illegal unless and until informed otherwise by the Government or carrier of any specific country. This would enable us to generate the projected traffic and consequently revenues to offset the reduced revenue in inpayments (based on bilaterally agreed upon reductions in Accounting rates).

11. OTHER

11.1 It is not the responsibility of the FCC to dictate the telecommunications development path nor influence the privatisation plans of sovereign nations.

11. OTHER (Cont'd)

11.2 If the proposals are implemented, it is likely that there will be reciprocity throughout the world thus impacting negatively on the industry's development in the future. Further, even if amendments are made, other developed countries such as Canada and those in Europe (which are also of fundamental importance to developing countries) may seek to obtain similar arrangements as the USA is seeking to do. It cannot be over emphasised that under such circumstances the telecommunications sector in developing countries will not be able to survive, let alone develop.

11.3 The rates used for some countries in the development of the cost of services are incorrect e.g. Trinidad and Tobago and Jamaica.

11.4 It is still not clear who and what will determine the return that is appropriate in the establishment of service costs. In our case, fluctuating currency rates also influence the incremental costs. No account was taken of these special circumstances of countries in establishing bands and the benchmark.

11.5 The global estimate of 8,000 minutes per circuit, 4:1 multiplexing over a 64 kbps channel is highly unrealistic, at least for developing countries such as ours.

12.0 ADDITIONAL ISSUES

Due to the limited time which we have had to study the FCC's proposals, TSTT reserves the right to raise additional issues not stated herein, and submit comments thereon by March 10, 1997.

....

SAMUEL A. MARTIN
Chief Executive Officer
Telecommunications Services of Trinidad & Tobago Limited